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NHTSA-2003-15470-8

**MAYER, BROWN, ROWE & MAW LLP**

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1909 K Street, N.W.  
Washington, D.C. 20006-1101

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**Adam C. Sloane**  
Direct Dial (202) 263-3269  
Direct Fax (202) 263-5269  
asloane@mayerbrownrowe.com

Main Telephone  
(202) 263-3000  
Main Fax  
(202) 263-3300

August 26, 2003

VIA FACSIMILE & HAND DELIVERY

Coleman Sachs, Esq.  
Office of Vehicle Safety Compliance  
National Highway Traffic Safety Administration  
400 Seventh Street, S.W.  
Washington, D.C. 20590

Re: Docket No. NHTSA-2003-15470, Petition for Decision that Nonconforming 2003 Mitsubishi Evolution VIII, Left Hand Drive Passenger Cars are Eligible for Importation

Dear Mr. Sachs:

Through its undersigned counsel, Mitsubishi Motors North America, Inc. ("Mitsubishi") hereby submits its response to the letter, dated August 11, 2003, submitted by G&K Automotive Conversion, Inc. ("G&K"), which is docketed as NHTSA-03-15470-7 and was posted to the electronic docket on August 25, 2003. In the letter, G&K asks that the agency disregard the comments submitted by the undersigned on behalf of Mitsubishi because, according to G&K, those comments were filed "one day after the end of the extension period, August 7, 2003."

We do not wish to belabor the issue, but must point out that G&K's letter is mistaken. The notice granting a reopening of the comment period (which itself was not published in the Federal Register until August 6, 2003) stated that "[a]ll comments received before the close of business on the closing date [August 6, 2003] . . . will be considered . . . . To the extent possible, comments filed after the closing date will also be considered." 68 Fed. Reg. 46676, 46676 (Aug. 6, 2003). Mitsubishi's comments were faxed to your attention before the close of business on the West Coast, where both Mitsubishi and G&K maintain their places of business. Mitsubishi's counsel faxed the comments from Washington, D.C. at 4:30 p.m., PDT (7:30 p.m., EDT) after receiving authorization to do so from Mitsubishi.

Moreover, as noted above, the notice reopening the comment period stated that the agency will consider comments filed subsequent to the close of the comment period "[t]o the

Brussels Charlotte Chicago Cologne Frankfurt Houston London Los Angeles Manchester New York Palo Alto Paris Washington, D.C.  
Independent Mexico City Correspondent: Jauregui, Navarrete, Nader y Rojas, S.C.

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Coleman Sachs, Esq.

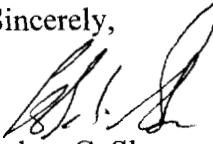
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extent possible.” Thus, even if Mitsubishi’s comments were regarded as technically late, because they were faxed to NHTSA two and a half hours after the docket room closed, G&K has not shown that it was not “possible” for NHTSA to consider them.<sup>1</sup>

There is no reason to adopt the punitive approach to comments suggested by G&K here. We do not believe that, on any fair reading of the notice granting the reopening of the comment period, Mitsubishi’s comments were late at all. Even if those comments were a few hours late in the East Coast time zone, however, it is both feasible and well within the agency’s discretion to consider them, and, in order to reach a fully informed decision on the safety-related issues raised in this proceeding, the agency should do so.

Sincerely,



Adam C. Sloane

cc: Docket Management, PL-401 (by hand delivery, Aug. 27, 2003)

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<sup>1</sup> The fact that Mitsubishi’s comments were hand-served at the docket room the next morning did not affect the agency’s ability to consider Mitsubishi’s comments.